

23 May 1979

MEMORANDUM FOR THE RECORD

SUBJECT: Revision of National Intelligence
Release and Disclosure Policy

1. By memorandum to the DCI dated 15 May 1979, Deputy Secretary of Defense, C.W. DUNCAN proposed that the recommendations made in consequence of a 1978 comprehensive review of Defense Department policies and practices governing the flow of intelligence to NATO were in consonance with the DCI's recent initiatives involving decompartmentation (the APEX study) and offered for DCI consideration a proposal to establish a working committee under the Policy Review Committee with the charge to develop a wider national release and disclosure policy.

2. Salient features of the proposed action call for:

- development of a statement of national interest in improving the controlled flow of classified information to our allies which includes:

- development of a policy document which derives its authority from the NSC,

- addresses release of both classified US information and foreign intelligence with NDPC having policy responsibility for classified US information and NFIB holding responsibility for development and promulgation of policy and procedures for release of intelligence information,

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- address release and disclosure of all sensitive compartmented intelligence currently regulated by NSCID's as well as collateral information,

- be applicable to all Departments and Agencies of the Executive Branch,

- make every effort to separate source data from substantive intelligence,

- simplify release procedures.

3. Objectives in addition to establishing this wider national disclosure policy document under the authority of the SRC include:

- Relief from the widely applied case by case review process,

- fixing responsibility with all US collectors of military intelligence for the identification of non-source revealing substantive intelligence and, therefore authorized in advance for incorporation in products to be disseminated in support of NATO and other allies, and

- extending authority to sanitize and disclosure to key DoD elements responsible for the analysis and production of all source military intelligence.

- The key objective is an unencumbered flow of non-source compromising data to allies on a timely and accurate basis.

4. The proposal would radically change current authorities and procedures.

- It would invest in the Policy Review Committee a specific charge it does not now have under E.O. 12036, Section 1-2 to address foreign release policy.

- It would remove from the NFIB its charge in E.O. 12036, Section 1-401 to advise the DCI concerning (d) arrangements with foreign governments on intelligence matters.
- Delete the authority of the DCI expressed in Section 1-603 of E.O. 12036 for "full responsibility for production and dissemination of national foreign intelligence", and,
- in Section 1-601 to formulate policies concerning intelligence arrangements with foreign governments and coordinate intelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments,
- infringe upon the authorities of Senior Officials of the Intelligence Community to "disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the DCI"; E.O. 12036, Section 1-711,
- cancel the DCI's delegation to his Security Committee to "review and formulate policies and procedures governing release of intelligence to foreign governments and international organizations..." "with respect to foreign disclosure, ensure that releases are in consonance with US security policy, should result in net advantage to the United States and that the intelligence itself is accorded a degree of protection equal to that afforded by the United States..."

5. The DCI requested that SA/DCI, convene a small group and consider Secretary Duncan's proposal. The group met on 22 May 1979. I offered the following observations and proposals:

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a. I believe that Secretary Duncan's proposal may be well taken but raises serious concerns in addition to administrative charter issues. Among these are:

(1) A possible misinterpretation of the DCI's recent initiatives involving review of our compartmentation programs. Decompartmentation and sanitization was not the primary purpose of the DCI's review. Establishment of reasonable security through a uniform special access program over identified sensitive operational and product intelligence should not be viewed as concomitant with an objective of providing an unencumbered flow of non-source compromising data to allies on a timely and accurate basis.

(2) Concern over the proposal that all substantive intelligence, including all sensitive compartmented intelligence, should be authorized in advance for release to foreign allies as long as it is judged to be non-source revealing. This is the very antithesis of the recently expressed DCI desire for a negative presumption of release of intelligence.

(3) The distinctions between military intelligence, classified US information and national foreign intelligence are unclear. For example, "all source military intelligence" is mentioned as including SIGINT and satellite imagery-derived information. Confusion on these categories offers potential for inadvertent release of sensitive national foreign intelligence.

(4) No matter what safeguards or procedures are established, the extension of sanitization and disclosure authority to key DoD elements responsible for the analysis and production of all-source military intelligence (including national foreign intelligence?) appears to be an unacceptable delegation of DCI authority with extreme potential for unauthorized disclosure.



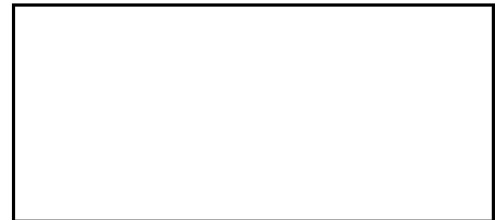
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Our key objective is the delivery of uncompromised and reliably secret intelligence to United States policy makers not to foreign organizations or allies.

(6) Consolidation of US policy authorities, simplification of procedures for release and disclosure and military commitments to allies and their warfighting capabilities are questionable issues in arriving at a net advantage to the United States in the release of our national foreign intelligence.

b. It was suggested that the DCI respond to Secretary Duncan with a proposal that the matter be first studied at the NFIB level.

The study should be conducted by either the DCI's Security Committee, augmented as necessary, or by a working group of NFIB representatives under the chairmanship of a DCI appointee. The study should be similar to the 1978 review of DoD policies and practices governing the flow of military intelligence to NATO but should address the current mechanism for the release of national foreign intelligence and propose recommendations for DCI consideration.



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